

IT IS ORDERED

Date Entered on Docket: May 13, 2021



The Honorable David T. Thuma  
United States Bankruptcy Judge

---

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In Re:

Maria Teresa McLane  
*aka* Teresa C McLane,

Debtor.

Case No. 21-10382-t7  
Chapter: 7

**DEFAULT ORDER GRANTING MOTION FOR RELIEF FROM STAY AND TO  
ABANDON PROPERTY LOCATED AT 3210 SOMBRERO RD. SW, DEMING, NEW  
MEXICO 88030**

This matter came before the Court on the Motion for Relief from Automatic Stay and to Abandon Property filed on April 13, 2021, Docket No. 11 (the "Motion") by Bank of Oklahoma, N.A., its successors and/or assigns ("Movant"). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

1. On April 13, 2021, Movant served the Motion and a notice of the Motion (the "Notice") on the case Trustee, Philip J. Montoya and Attorney for Debtor, Kenneth G. Egan by use of the Court's case management and electronic filing system for the transmission of notices,

as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on the Debtor, Maria Teresa McLane by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

2. The Motion relates to the property known as 3210 Sombrero Rd. SW, Deming, New Mexico 88030 (the "Property") with a legal description:

A Tract of land situate in the East Half of the Northeast Quarter (E½NE¼), Section Eleven (11), Township Twenty-four (24) South, Range Ten (10) West, N.M.P.M., Luna County, New Mexico and being described as follows:

Beginning at the NE corner of the tract herein described, which point bears S00°27'30"W along the East line of said Section 11 a distance of 993.66 feet and N89°53'00"W, 877.54 feet from NE corner of said Section 11, marked by a bolt; Thence S00°29'55"W, 496.83 feet to the SE corner of this tract; Thence N89°53'00"W, 234.19 feet to the SW corner of this tract; Thence N00°29'55"E, 496.83 feet to the NW corner of this tract; Thence S89°53'00"E, 234.19 feet to the point of beginning.

3. The Notice specified an objection deadline of 21 days from the date of service of the Notice, to which 3 days was added under Bankruptcy Rule 9006(f);

4. The Notice was sufficient in form and content;

5. The objection deadline expired on May 7, 2021;

6. As of May 10, 2021, neither Debtor(s) nor Trustee, nor any other party in interest, filed an objection to the Motion;

7. The Motion is well taken and should be granted as provided herein; and

8. By submitting this Order to the Court for entry, the undersigned counsel for Movant certifies under penalty of perjury that, on May 10, 2021, Dyane Martinez, a Legal Assistant of Weinstein & Riley, P.S., searched the data banks of the Department of Defense Manpower Data Center ("DMDC") and found that DMDC does not possess any information indicating that Maria Teresa McLane *aka* Teresa C. McLane (the "Debtor") is currently on active military duty of the United States.

**IT IS THEREFORE ORDERED:**

1. Pursuant to 11 U.S.C. §362(d), Movant and any and all holders of liens against the Property, of any lien priority, are hereby granted relief from the automatic stay:

a. To enforce their rights in the Property, including foreclosure of liens and a foreclosure sale, under the terms of any prepetition notes, mortgages, security agreements and/or other agreements to which Debtor is a party, to the extent permitted by applicable non-bankruptcy law, such as by commencing or proceeding with appropriate action against Debtor or the Property, or both, in any court of competent jurisdiction; and

b. To exercise any other right or remedy available to them under law or equity with respect to the Property.

2. Trustee is deemed to have abandoned the Property from the estate pursuant to 11 U.S.C. §554 as of the date of entry of this Order, and the Property therefore no longer is property of the estate. As a result, Movant need not name Trustee as a defendant in any state court action it may pursue to foreclose liens against the Property and need not notify Trustee of any sale of the Property.

3. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of Debtor, although Debtor can be named as a defendant in litigation to obtain an *in rem* judgment or to repossess the Property in accordance with applicable non-bankruptcy law.

4. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

5. This order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

6. Movant is further granted relief from the stay to engage in loan modification discussions or negotiations or other settlement discussions with Debtor and to enter into a loan modification with Debtor.

XXX END OF ORDER XXX

Submitted by:

/s/ Elizabeth V. Friedenstein

Elizabeth V. Friedenstein

Weinstein & Riley, P.S.

2501 San Pedro Drive NE, Bldg. A, Suite 102

Albuquerque, NM 87110

Direct: 505-348-3075

Fax: 505-214-5116

Email: ElizabethF@w-legal.com

Attorney for Movant

*Copies to:*

**Debtor:**

Maria Teresa McLane

3210 Sombrero Rd. SW

Deming, NM 88030

**Debtor's Counsel:**

Kenneth G Egan

1111 E Lohman

Las Cruces, NM 88001-3268

**Trustee**

Philip J. Montoya

1122 Central Ave SW Ste #3

Albuquerque, NM 87102

**United States Trustee**

PO Box 608

Albuquerque, NM 87103-0608